

### REMARKS

In the non-Final Office Action, the Examiner rejects claims 1, 6 and 11-14 under 35 U.S.C. § 102(b) as being anticipated by Afferton et al. (U.S. Patent 6,278,689); rejects claims 15 and 16 under 35 U.S.C. § 103(a) as being unpatentable over Afferton et al. in view of Wang et al. (U.S. Patent 6,813,241); rejects claims 2-5 and 7-10 under 35 U.S.C. § 103(a) as being unpatentable over Afferton et al. in view of Ramaswami (U.S. Patent 6,792,174) and rejects claims 17-20 under 35 U.S.C. § 103(a) as being unpatentable over Afferton et al. in view of Wang et al. and Ramaswami.

Applicant has amended claims 1-20 to improve form. No new matter has been added. Claims 1-20 remain pending.

Claims 1, 6 and 11-14 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Afferton et al.

Independent claim 1 is directed to a method for responding to a failure in a network including a router and an optical cross-connect system (OXC), the method comprising: detecting the failure in the router; sending a signal from the router to the OXC, where the signal indicates the failure, causing a working port of the OXC to connect to a protection port of the router in response to detection of the signal; and transmitting data from the router to the OXC via the protection port. Applicant respectfully submits that Afferton et al. does not disclose or suggest this combination of features.

For example, Afferton et al. does not disclose or suggest sending a signal from the router to the OXC, where the signal indicates the failure and causing a working port of

the OXC to connect to a protection port of the router in response to detection of the signal, as recited in claim 1. The Office Action (page 2) states “(See Col. 1, line 65-67 and Col. 2 line 1-32, Col. 5 line 5-15 i.e. optical path linked to the OXC from the router which is the monitoring unit),” for allegedly disclosing these features. Applicant respectfully disagrees with the Examiner’s interpretation of Afferton et al.

The Examiner interprets/relies on the monitoring unit (28) of Afferton et al. as being equivalent to the recited router. Using this interpretation, the monitoring unit of Afferton et al. would have to send a signal to the OXC, where the signal indicates the failure (in the monitoring unit) and cause a working port of the OXC to connect to a protection port of the router (monitoring unit) in response to detection of the signal, as required by claim 1. Applicant respectfully submits, however, that Afferton et al. does not disclose or suggest sending a signal from the monitoring unit to the OXC, where the signal indicates the failure and causing a working port of the OXC to connect to a protection port of the router in response to detection of the signal, as recited in claim 1.

Accordingly, withdrawal of the rejection and allowance of claim 1 are respectfully requested.

Independent claim 6 recites features similar to, but of different scope than, claim 1. For reasons similar to those discussed above with respect to claim 1, Applicant submits that claim 6 is patentable over Afferton et al. Accordingly, withdrawal of the rejection and allowance of claim 6 are respectfully requested.

Independent claim 11 is directed to an optical cross-connect system comprising: a spare port for transmitting low priority data from a router; and a working port for

transmitting high priority data from a primary router, where the working port is connected to the router in response to a failure of the primary router. Applicant respectfully submits that Afferton et al. does not disclose or suggest this combination of features.

For example, Afferton et al. does not disclose or suggest that the working port is connected to the router in response to a failure of the primary router, as recited. The Office Action (pages 3-4) states “(See Col. 1, line 65-67 and Col. 2 line 1-32, Col. 5 line 5-15 and line 40-50, Abstract 1-13 i.e. receiving signal from the router which is the monitoring unit to an the OXC),” for allegedly disclosing this feature. Applicant respectfully disagrees with the Examiner’s interpretation of Afferton et al.

These cited portions of Afferton et al. disclose communications between two nodes using an optical service path and an optical protection path. None of these cited portions of Afferton et al. disclose or suggest both a router and a primary router, where a working port is connected to a router in response to failure of a primary router, as recited. The Office Action appears to address only one router and indicates that the router is the monitoring unit of Afferton et al. Further, it is unclear if the “monitoring unit” of Afferton et al. is interpreted to be the router or the primary router recited in claim 11. In any event, at best, Afferton et al. discloses only one router. Therefore, Applicant respectfully submits that Afferton et al. does not disclose or suggest a router and a primary router, where a working port for transmitting high priority data is connected to a router in response to failure of a primary router, as recited in claim 11.

Accordingly, withdrawal of the rejection and allowance of claim 11 are respectfully requested.

Claims 12-14 depend from claim 11. Therefore, Applicant submits that these claims are allowable for at least the reasons as set forth above with respect to claim 11.

As discussed above, it is unclear from the rejection of these dependent claims (Office Action page 4), which device(s) of Afferton are relied upon to allegedly disclose the recited "router." The rejection of claim 12 states "the router can be the alarm and restoration system", while the rejection of claim 13 (that depends from claim 12), states "(See Col. 1 line 11-17 i.e. working port which is the service path connect to the router)." Therefore, Applicant respectfully requests clarification in any subsequent communication. In addition, Applicant respectfully submits that these claims are allowable for at least the reasons as set forth above with respect to claim 11.

Accordingly, withdrawal of the rejection and allowance of claims 12-14 are respectfully requested.

Claims 15 and 16 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Afferton et al. in view of Wang et al.

Independent claim 15 recites features similar to, but of different scope than, claim 1. For reasons similar to those discussed above with respect to claim 1, Applicant submits that claim 15 is patentable over Afferton et al. Applicant also respectfully submits that Wang et al. does not remedy the deficiencies of Afferton et al discussed above with respect to claim 1. Accordingly, withdrawal of the rejection and allowance of claim 15 are respectfully requested.

Claim 16 depends from claim 15. Therefore, Applicant submits that this claim is allowable for at least the reasons as set forth above with respect to claim 15.

Claims 2-5 and 7-10 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Afferton et al. in view of Ramaswami. Applicant respectfully traverses this rejection.

Claims 2-5 depend from claim 1. Applicant respectfully submits that the disclosure of Ramaswami does not remedy the deficiencies in the disclosures of Afferton et al. as discussed above with respect to claim 1. Therefore, Applicant submits that claims 2-5 are allowable over Afferton et al. and Ramaswami, whether taken alone or in any reasonable combination, for at least the reasons as set forth above with respect to claim 1.

Accordingly, withdrawal of the rejection and allowance of claims 2-5 are respectfully requested.

Claims 7-10 depend from claim 6. Applicant respectfully submits that the disclosure of Ramaswami does not remedy the deficiencies in the disclosures of Afferton et al. as discussed above with respect to claim 6. Therefore, Applicant submits that claims 7-10 are allowable over Afferton et al. and Ramaswami, whether taken alone or in any reasonable combination, for at least the reasons as set forth above with respect to claim 6.

Accordingly, withdrawal of the rejection and allowance of claims 7-10 are respectfully requested.

Claims 17-20 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Afferton et al. in view of Wang et al. and Ramaswami. Applicant respectfully traverses this rejection.

Claims 17-20 depend from claim 15. Applicant respectfully submits that the disclosure of Ramaswami does not remedy the deficiencies in the disclosures of Afferton et al. and Wang as discussed above with respect to claim 15. Therefore, Applicant submits that claims 17-20 are allowable over Afferton et al., Wang and Ramaswami, whether taken alone or in any reasonable combination, for at least the reasons as set forth above with respect to claim 15.

Accordingly, withdrawal of the rejection and allowance of claims 17-20 are respectfully requested.

As Applicant's remarks with respect to the Examiner's rejections are sufficient to overcome these rejections, Applicant's silence as to assertions by the Examiner in the Office Action or certain requirements that may be applicable to such rejections (e.g., whether a reference constitutes prior art, assertions as to dependent claims, etc.) is not a concession by Applicant that such assertions are accurate or such requirements have been met, and Applicant reserve the right to analyze and dispute such assertions/requirements in the future.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-1070 and please credit any excess fees to such deposit account.

Respectfully submitted,

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